

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

* * * * *

DOUG PALUCK and RHONDA PALUCK *

as parents and natural guardians on behalf *
of their minor son, K.P., *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

* * * * *

No. 07-889V

The Honorable Charles F. Lettow
Special Master Christian J. Moran

Filed: August 14, 2015

Reissued: August 27, 2015

Damages; decision based on
proffer.

Sheila A. Bjorklund, Lommen Abdo Law Firm, Minneapolis, MN, for petitioners;
Alexis Babcock, United States Dep't of Justice, Washington, DC, for respondent.

PUBLISHED DECISION ON REMAND AWARDING DAMAGES¹

On December 21, 2007, Doug and Rhonda Paluck filed a petition alleging that various vaccines harmed their son, K.P. They sought compensation through the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa—10 through 34 (2012). After lengthy proceedings, the Court of Federal Claims found that the Palucks established that the vaccines significantly aggravated a K.P.'s pre-existing mitochondrial disorder. The Court remanded the case for a determination of damages to which the Palucks are entitled. 113 Fed. Cl. 210 (2013).

On February 11, 2014, the Secretary submitted a proffer regarding the amount of compensation. On that same date, the undersigned issued a decision awarding damages in accordance with the proffer. After the Secretary appealed,

¹ When this decision was originally issued, the parties were notified that the decision would be posted in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). The parties were also notified that they may seek redaction pursuant to 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b). Petitioners made a timely request for redaction and this decision is being reissued with the name of the minor child redacted to initials.

the Federal Circuit affirmed the finding of entitlement to compensation. Paluck v. Sec'y of Health & Human Servs., 786 F.3d 1373 (Fed. Cir. 2015).

In light of the passage of time during appeal, the parties filed a joint motion for relief of judgment stating that the February 11, 2014 award of damages on proffer no longer reflected the present value of the compensation and therefor was no longer equitable. Jt. Mot., filed July 17, 2015, at 2. The Court granted this motion and remanded the matter on July 22, 2015. The Secretary filed a revised proffer on damages on July 23, 2015.

Based upon the record as a whole, the undersigned finds that the amount contained in the revised proffer is reasonable. The Clerk's Office is instructed to enter judgment in the amounts listed in the proffer attached to the decision issued August 14, 2015.² The Clerk's Office is also instructed to provide a copy of this decision to the presiding judge. Vaccine Rule 28.1(a).

IT IS SO ORDERED.

S/ Christian J. Moran
Christian J. Moran
Special Master

³ The Palucks have requested that specific amounts of compensation not be available to the public. In accord with the Court's comments during an oral argument on a motion for review of an order denying a motion for redaction held on November 13, 2013, the Palucks' proposed redaction of this decision is GRANTED.